

SENATE BILL 2097

By Burchett

AN ACT to amend Tennessee Code Annotated, Title 44,
Chapter 20, Part 1, relative to certain animal
activities.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 44-20-101, is amended by deleting the section in its entirety and by substituting instead the following:

Section 44-20-101. The general assembly recognizes that persons who participate in equine activities or llama activities may incur injuries as a result of the risks involved in such activities. The general assembly also finds that the state and its citizens derive numerous economic and personal benefits from such activities. It is, therefore, the intent of the general assembly to encourage equine activities and llama activities by limiting the civil liability of those involved in such activities.

SECTION 2. Tennessee Code Annotated, Section 44-20-102, is amended by deleting subdivision (7) in its entirety and by substituting instead the following subdivisions to be appropriately designated:

() (A) "Engages in a llama activity" means riding, training, assisting in medical treatment of, driving, or being a passenger upon a llama, whether mounted or unmounted or any person assisting a participant or show management;

(B) The term "engages in a llama activity" does not include being a spectator at a llama activity, except in cases where the spectator places himself in an unauthorized area and in immediate proximity to the llama activity;

() "Llama" means a South American camelid which is an animal of the genus lama, commonly referred to as a "one 'L' lama", including llamas, alpacas, guanacos, and vicunas;

() "Llama activity" means:

(A) Llama shows, fairs, competitions, performances, packing events, or parades that involve any or all breeds of llamas;

(B) Using llamas to pull carts or to carry packs or other items;

(C) Using llamas to pull travois-type carriers during rescue or emergency situations;

(D) Llama training or teaching activities or both;

(E) Taking llamas on public relations trips or visits to schools or nursing homes;

(F) Participating in commercial packing trips in which participants pay a llama professional to be a guide on a hike leading llamas;

(G) Boarding llamas;

(H) Riding, driving, inspecting, or evaluating a llama belonging to another, whether or not the owner has received some monetary consideration or other thing of value for the use of the llama or is permitting a prospective purchaser of the llama to ride, inspect, or evaluate the llama;

(I) Using llamas in wool production;

(J) Using llamas as livestock guardians;

(K) Rides, trips, or other llama activities of any type however informal or impromptu that are sponsored by a llama activity sponsor;

(L) Volunteering at a llama rescue facility; and

(M) Trimming the nails of a llama;

() "Llama activity sponsor" means an individual, group, club, partnership, or corporation, whether or not the sponsor is operating for profit or nonprofit, which sponsors, organizes, or

provides the facilities for, a llama activity, including but not limited to: llama clubs, 4-H clubs, hiking clubs, driving clubs, school and college-sponsored classes, programs and activities, therapeutic programs, and llama rescue; and operators, instructors, and promoters of llama facilities, including but not limited to stables, clubhouses, fairs, and arenas at which the activity is held.

() "Llama professional" means a person engaged for compensation:

(A) In instructing a participant or renting to a participant a llama for the purpose of riding, driving, or being a passenger upon the llama; or

(B) In renting equipment or tack to a participant;

() "Inherent risks of llama activities" means those dangers or conditions which are an integral part of llama activities, including, but not limited to:

(A) The propensity of a llama to behave in ways that may result in injury, harm, or death to persons on or around them;

(B) The unpredictability of a llama's reaction to such things as sounds, sudden movements, and unfamiliar objects, persons, or other animals;

(C) Certain hazards such as surface and subsurface conditions;

(D) Collisions with other llamas or objects; and

(E) The potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, such as failing to maintain control over the animal or not acting within the participant's ability;

() "Participant" means any person, whether amateur or professional, who engages in an equine activity or who engages in a llama activity, whether or not a fee is paid to participate in the equine activity or llama activity;

SECTION 3. Tennessee Code Annotated, Section 44-20-103, is amended by deleting such section in its entirety and by substituting instead the following:

Section 44-20-103. Except as provided in § 44-20-104, an equine activity sponsor, an equine professional, a llama activity sponsor, a llama professional, a doctor of veterinary medicine, or any other person, which shall include a corporation or partnership, shall not be liable for an injury to or the death of a participant resulting from the inherent risks of equine activities, or from the inherent risks of llama activities. Except as provided in § 44-20-104, no participant or participant's representative shall make any claim against, maintain an action against, or recover from an equine activity sponsor, an equine professional, a llama activity sponsor, a llama professional, a doctor of veterinary medicine, or any other person for injury, loss, damage, or death of the participant resulting from any of the inherent risks of equine activities or resulting from any of the inherent risks of llama activities.

SECTION 4. Tennessee Code Annotated, Section 44-20-104, is amended by deleting such section in its entirety and by substituting instead the following:

Section 44-20-104.

(a) This chapter shall not apply to the horse racing industry as regulated in title 4, chapter 36.

(b) Nothing in § 44-20-103 shall prevent or limit the liability of an equine activity sponsor, an equine professional, a llama activity sponsor, a llama professional, or any other person if the equine activity sponsor, equine professional, llama activity sponsor, llama professional, or person:

(1) (A) Provided the equipment or tack, and knew or should have known that the equipment or tack was faulty, and such equipment or tack was faulty to the extent that it did cause the injury; or

(B) Provided the equine and failed to make reasonable and prudent efforts to determine the ability of the participant to engage safely in the equine activity or the llama activity and determine the ability of the participant to safely

manage the particular equine or llama based on the participant's representations of the participant's ability;

(2) Owns, leases, rents, or otherwise is in lawful possession and control of the land or facilities upon which the participant sustained injuries because of a dangerous latent condition which was known to the equine activity sponsor, equine professional, llama activity sponsor, llama professional, or person and for which warning signs have not been conspicuously posted;

(3) Commits an act or omission that constitutes willful or wanton disregard for the safety of the participant, and that act or omission caused the injury; or

(4) Intentionally injures the participant.

(c) Nothing in § 44-20-103 shall prevent or limit the liability of an equine activity sponsor, an equine professional, a llama activity sponsor, or a llama professional:

(1) Under product liability provisions in title 29, chapter 28; or

(2) Under trespass provisions in chapter 8 of this title.

(d) Title 70, chapter 7 does not apply to an equine activity sponsor, an equine professional, a llama activity sponsor, or a llama professional. It is the legislative intent that equine activity sponsors and equine professionals be held to a higher standard of care.

SECTION 5. Tennessee Code Annotated, Section 44-20-105, is amended by deleting such section in its entirety and by substituting instead the following:

Section 44-20-105. (a) (1) Every equine professional shall post and maintain signs which contain the warning notice specified in subdivision (2). Such signs shall be placed in clearly visible locations on or near stables, corrals, or arenas where the equine professional conducts equine activities if such stables, corrals, or arenas are owned, managed, or controlled by the

equine professional. The warning notice specified in subdivision (2) shall appear on the sign in black letters, with each letter to be a minimum of one inch (1") in height. Every written contract entered into by an equine professional for the providing of professional services, instruction, or the rental of equipment or tack or an equine to a participant, whether or not the contract involves equine activities on or off the location or site of the equine professional's business, shall contain in clearly readable print the warning notice specified in subdivision (2).

(2) The signs and contracts described in subdivision (1) shall contain the following warning notice:

WARNING

Under Tennessee Law, an equine professional is not liable for an injury to or the death of a participant in equine activities resulting from the inherent risks of equine activities, pursuant to Tennessee Code Annotated, title 44, chapter 20.

(b) (1) Every llama professional shall post and maintain signs which contain the warning notice specified in subdivision (2). Such signs shall be placed in a clearly visible location on or near stables, corrals, pens, or arenas where the llama professional conducts llama activities if such stables, corrals, pens, or arenas are owned, managed, or controlled by the llama professional. The warning notice specified in subdivision (2) shall appear on the sign in black letters, with each letter to be a minimum of one inch (1") in height. Every written contract entered into by a llama professional for the providing of professional services, instruction, or the rental of equipment or tack or a llama to a participant, whether or not the contract involves llama activities on or off the location or site of the llama professional's business, shall contain in clearly readable print the warning notice specified in subdivision (2).

(2) The signs and contracts described in subdivision (1) shall contain the following warning notice:

WARNING

Under Tennessee Law, a llama professional is not liable for an injury to or the death of a participant in llama activities resulting from the inherent risks of llama activities, pursuant to Tennessee Code Annotated, title 44, chapter 20.

SECTION 6. This act shall take effect July 1, 2007, the public welfare requiring it.